

# DEMOCRATIC REPUBLIC OF THE CONGO

## 2020 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

The Democratic Republic of the Congo is a centralized constitutional republic. Voters popularly elect the president and the lower house of parliament (National Assembly). Following a two-year delay, presidential, legislative, and provincial elections were held on December 30, 2018. On January 10, 2019, the National Independent Electoral Commission declared Felix Tshisekedi the winner of the 2018 presidential election. The 2018 election was marred by irregularities and criticized by some observers, including the Council of Bishops, who stated the results did not match those of their observation mission. The 2019 inauguration of President Tshisekedi was the first peaceful transfer of power in the country's history.

The primary responsibility for law enforcement and public order lies with the Congolese National Police, which operates under the Ministry of the Interior. The National Intelligence Agency, overseen by the presidency, is responsible for internal and external intelligence. The Armed Forces of the Democratic Republic of the Congo and the military intelligence service operate under the control of the Ministry of Defense and are primarily responsible for external security but in reality focus almost exclusively on internal security. The presidency oversees the Republican Guard, and the Ministry of Interior oversees the Directorate General for Migration, which, together with the Congolese National Police, are responsible for border control. Civilian authorities did not always maintain control over the security forces. Members of the security forces committed numerous abuses.

Significant human rights issues included: unlawful or arbitrary killings, including extrajudicial killings; forced disappearances; torture and cases of cruel, inhuman, or degrading treatment or punishment; harsh and life-threatening prison conditions; arbitrary detention; political prisoners or detainees; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious abuses in an internal conflict, including killing of civilians, enforced disappearances or abductions, and torture and physical abuses or punishment, unlawful recruitment or use of child soldiers by illegal armed groups, and other conflict-related abuses; serious restrictions on free expression and the press, including violence, threats of violence, or unjustified arrests of journalists, censorship, and criminal libel; interference with the rights of peaceful assembly and freedom of association; serious acts of official corruption; lack of investigation

and accountability for violence against women; trafficking in persons; crimes involving violence or threats of violence targeting persons with disabilities, members of national, racial, and ethnic minority groups, and indigenous people; crimes involving violence or threat of violence targeting lesbian, gay, bisexual, transgender, and intersex persons; and existence of the worst forms of child labor.

The government took some steps to identify, investigate, prosecute, and punish officials who committed human rights abuses, although there was impunity for many such abuses. Authorities often did not investigate, prosecute, or punish those who were responsible, particularly at higher levels. The government convicted some officials on counts of murder, rape, torture, arbitrary detention, and corruption, and sometimes punished security force officials who committed abuses.

Government security forces, as well as illegal armed groups, continued to commit abuses, primarily in the restive eastern provinces and the Kasai region. These abuses included unlawful killings, disappearances, torture, destruction of government and private property, and sexual and gender-based violence. Illegal armed groups also recruited, abducted, and retained child soldiers and forced labor. The government took military action against some illegal armed groups and investigated and prosecuted some armed group members for human rights abuses.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were numerous reports the government or its agents committed arbitrary or unlawful killings. Military courts had primary responsibility for investigating whether security force killings were justified and pursuing prosecutions.

The state security forces (SSF) committed arbitrary or unlawful killings in operations against illegal armed groups (IAGs) in the east and in the Kasai region (see section 1.g.). According to the UN Joint Office of Human Rights (UNJHRO), security forces were responsible for at least 225 extrajudicial killings across the country as of June 30. Many of these extrajudicial killings occurred in the North Kivu, South Kivu, and Ituri Provinces, where the Armed Forces of the Democratic Republic of the Congo (FARDC) fought the Allied Democratic Forces (ADF) and other militias, including ethnic militias in the Djugu Territory of Ituri.

The United Nations reported that between March 30 and April 22, Congolese National Police (PNC) officers and members of the military police were responsible for the extrajudicial killing of 66 persons, as well as the injuries of another 74, through excessive use of force related to the crackdown on the political and religious separatist movement Bundu Dia Kongo, also known as Bundu Dia Mayala. In particular UN and other investigators found that on April 22, PNC officers attacked a church in Songololo, Kongo Central Province, filled with Bundu Dia Kongo supporters, killing 15. On April 24, during an operation to arrest Ne Muanda Nsemi, the leader of Bundu Dia Kongo, at his compound in Kinshasa, PNC and Republican Guard clashes with Bundu Dia Kongo supporters resulted in the deaths of at least 33 persons. Following the Kinshasa operations, military prosecutors took steps to investigate whether security forces had committed unjustifiable killings and indicated they would pursue prosecutions. As of October the investigations continued.

Local media reported that on May 21, a PNC officer shot and killed a protester in Beni, North Kivu Province. The victim, Freddy Kambale, a member of the youth activist group “Fight for Change” (LUCHA), was protesting continued insecurity in the region. Police responding to the protest initially stated the march was in violation of national COVID-19-related state of emergency provisions, which prohibited any gatherings larger than 20. Local observers testified that only 20 persons were present at the protest. On July 13, a military court found the police officer in question guilty of murder and sentenced him to life in prison.

Human Rights Watch (HRW) reported that the bodies of three men who washed up in the Lubumbashi River after protests on July 9 bore scarring and mutilations that indicated possible torture. At least one man was alleged to have been in military police custody prior to his death. As of September military justice officials were investigating the case.

Although the military justice system convicted some SSF agents of human rights abuses, impunity remained a serious problem. The government maintained joint human rights committees with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and used available international resources, such as the UN-implemented technical and logistical support program for military prosecutors as well as mobile hearings supported by international nongovernmental organizations (NGOs). Military courts convicted some SSF agents of human rights violations. The United Nations reported that as of July 31, at least 85 FARDC soldiers and 32 PNC officers had been convicted of human rights abuses.

IAGs committed arbitrary and unlawful killings throughout the year (see section 1.g.). IAGs recruited and used children as soldiers and human shields and targeted the SSF, government officials, and others. IAGs, including the Nduma Defense of Congo-Renewal (NDC-R) and other groups, were responsible for at least 1,315 summary executions as of June 30, which the UNJHRO described as a “staggering increase” when compared with the 416 killings recorded during the same period in 2019.

### **b. Disappearance**

There were reports of disappearances attributable to the SSF during the year. Authorities often refused to acknowledge the detention of suspects and sometimes detained suspects in unofficial facilities, including on military bases and in detention facilities operated by the National Intelligence Agency (ANR). The whereabouts of some civil society activists and civilians arrested by the SSF remained unknown for long periods. Despite President Tshisekedi’s promise to grant the United Nations access to all detention facilities, some ANR prisons remained hidden and thus were impossible to access.

UNJHRO reported that on February 22, PNC agents allegedly arbitrarily arrested and illegally detained two men in Kalemie, the capital of Tanganyika Province. The two were arrested on the grounds that they were fighting in public. On February 24, a family member went to the police station to visit the men and was informed that they had escaped. Since the arrest, however, the family had not heard from the two men.

MONUSCO reported that on June 9, a man in Kinshasa was the victim of an enforced disappearance. Prior to his disappearance, the victim reportedly informed a relative of a dispute between himself and a FARDC officer living in Camp Kokolo, a military facility in Kinshasa. As of September a military justice investigation was underway.

IAGs kidnapped numerous persons, generally for forced labor, military service, or sexual slavery. Many of these victims disappeared (see section 1.g.).

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law criminalizes torture, but there were credible reports the SSF continued to abuse and torture civilians, particularly detainees and prisoners. Throughout the year activists circulated videos of police beating unarmed and nonviolent protesters.

Local media reported that on June 13, an ANR agent in Kalemie, Tanganyika Province, arrested and flogged a businessman accused of counterfeiting U.S. currency. The man was summoned to the ANR office five days after making a purchase in a store in Kalemie. The ANR agent allegedly whipped the man's lower body to force a confession. A photograph of the man circulated on social media showing him bloody with his pants down. The man was hospitalized due to his injuries. In response Human Rights Minister Andre Lite called for an investigation, noting the government had a policy of zero tolerance for torture. As of November the investigation continued.

On July 28, PNC agents in Kisangani, Tshopo Province, arrested three members of the Filimbi citizen movement after they protested the refusal of Tshopo provincial Governor Walle Lufungula to resign after being censured by the provincial legislature. Filimbi and other civil society groups reported they had followed all appropriate legal requirements for organizing a public march. Local human rights defenders reported police tortured and mistreated the Filimbi activists while they were under arrest, with one sent to the hospital following their release on July 30.

Human Rights Minister Andre Lite publicly condemned the governors of Equateur, Mongala, Sankuru, Haut Uele, and Kasai Central Provinces for ordering the torture of political dissidents.

According to the *Conduct in UN Field Missions* online portal, there were 30 open allegations of sexual exploitation and abuse by Congolese peacekeepers deployed to UN peacekeeping missions, including three from 2019, one from 2018, one from 2017, 18 from 2016, and seven from 2015. As of September the government had not yet provided the accountability measures taken for all 30 open allegations: 17 cases of rape of a child, three cases of sexual assault of or sexual activity with a child, one case of rape of an adult, five cases of transactional sex with an adult, three cases of sexual assault of an adult, and one case of an exploitative relationship with an adult.

Impunity among the FARDC for such actions was a problem, though the government continued to make progress in holding security forces accountable for human rights violations and abuses. The ongoing conflict in eastern DRC impeded

some efforts at accountability for such actions. The United Nations reported that the military justice system investigated human rights abuses and convicted officers for crimes of sexual violence, murder, arbitrary arrest, and torture.

### **Prison and Detention Center Conditions**

Conditions in most prisons throughout the country were harsh and life threatening due to food shortages, gross overcrowding, and inadequate sanitary conditions and medical care. Even harsher conditions prevailed in small detention centers run by the ANR, Republican Guard (RG), or other security forces, which often detained prisoners for lengthy pretrial periods without providing them access to family or legal counsel.

Physical Conditions: Central prison facilities were severely overcrowded, with an estimated occupancy rate of 200 percent of capacity. For example, Makala Central Prison in Kinshasa, which was constructed in 1958 to house 1,500 prisoners, held as many as 8,200 inmates simultaneously during the year. In August 2019 the National Human Rights Council published findings from visits to prisons in each of the country's 26 provinces in 2018. The council found that all except four prisons were grossly overcrowded and most buildings used for detention were originally built for other purposes. For example, in Kamina, Upper Lomami Province, 244 prisoners were being held in a former train station. In Isiro, Upper Uele Province, 96 men were detained in a beer warehouse. In Bunia, Ituri Province, 1,144 prisoners were held in a former pigsty.

Following the visit of UN High Commissioner for Human Rights Michelle Bachelet in January, the government began an initiative to decongest prisons. That process accelerated during the COVID-19 pandemic, and as of June 30, at least 2,843 prisoners had been released.

Authorities generally confined men and women in separate areas but often held juveniles with adults. Women were sometimes imprisoned with their children. Authorities rarely separated pretrial detainees from convicted prisoners.

Serious threats to life and health were widespread and included violence (particularly rape); food shortages; and inadequate potable water, sanitation, ventilation, temperature control, lighting, and medical care. Poor ventilation subjected detainees to extreme heat. Most prisons were understaffed, undersupplied, and poorly maintained, leading to corruption and poor control of the prison population, as well as prison escapes. Local media reported that the

Ministry of Justice, which oversees prisons, did not have enough money to pay for food or medical care for inmates. The United Nations reported that through June 30, 89 individuals had died in detention, a 16 percent decrease, compared with 106 deaths recorded in the same period in 2019. These deaths resulted from malnutrition, poor sanitation conditions, and lack of access to proper medical care. Because inmates received inadequate supplies of food and little access to water, many relied exclusively on relatives, NGOs, and church groups to provide them sustenance.

Local human rights organizations reported that during a 30-day period in January, at least 49 inmates in Kinshasa's Makala Central Prison died of malnutrition and related diseases, with another 69 prisoners in Bukavu, South Kivu Province, and 44 in Goma, North Kivu Province, starving to death between October 2019 and February. On May 3, 20 inmates escaped from the central prison in Watsa, Haut Uele Province, by removing the facility's roof; in the wake of the incident, the prison director admitted many of the prisoners were suffering from malnutrition.

Directors and staff generally ran prisons for profit, selling sleeping arrangements to the highest bidders and requiring payment for family visits. According to a *Deutsche Welle* report in May, prisoners in Kasai-Oriental capital Mbuji Mayi's central prison and at the Ndolo military prison in Kinshasa were subject to gross overcrowding and had to pay prison officials for sleeping space.

IAGs detained civilians, often for ransom. Survivors reported to MONUSCO they were often subjected to forced labor (see section 1.g.).

Administration: Authorities denied access to visitors for some inmates and often did not permit inmates to contact or submit complaints to judicial authorities.

Independent Monitoring: The government regularly allowed the International Committee of the Red Cross, MONUSCO, and NGOs access to official detention facilities maintained by the Ministry of Justice, but it sometimes denied access to facilities run by the RG, ANR, and military intelligence services. COVID-19 prevented internal travel, thus negatively affecting monitoring efforts.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest or detention, but the SSF routinely arrested or detained persons arbitrarily (see section 1.e.). IAGs also abducted and detained

persons arbitrarily, often for ransom. Survivors reported to MONUSCO they were often subjected to forced labor (see section 1.g.).

### **Arrest Procedures and Treatment of Detainees**

By law arrests for offenses punishable if convicted by more than six months' imprisonment require warrants. Detainees must appear before a magistrate within 48 hours. Authorities must inform those arrested of their rights and the reason(s) for their arrest, and they may not arrest a family member in lieu of the suspected individual. Authorities must allow arrested individuals to contact their families and consult with attorneys. Security officials, however, routinely violated all of these requirements.

While the law provides for a bail system, it generally did not function. Detainees who were unable to pay for a lawyer were rarely able to access legal counsel. Authorities often held suspects incommunicado, including in unofficial detention centers run by the ANR, military intelligence, and the RG, and refused to acknowledge these detentions.

Prison officials often held individuals longer than their sentences due to disorganization, inadequate records, judicial inefficiency, or corruption. Prisoners unable to pay their fines often remained indefinitely in prison (see section 1.e.).

Arbitrary Arrest: Security personnel arrested and detained civil society activists, journalists, and opposition party members and sometimes denied them due process (see sections 1.a., 2.a., and 5). Security forces regularly held protesters and civil society activists incommunicado and without charge for extended periods. The United Nations reported the SSF arbitrarily arrested at least 1,327 persons across the country as of June 30, compared with 2,947 persons during the same period in 2019. Human rights defenders continued to be subject to arbitrary arrest and detention without a fair public trial.

On January 20, Joseph Lokondo, a human rights activist, was arrested for criticizing the governor of Equateur Province, Dieudonne Boloko. He remained in pretrial detention until July 7, when, according to HRW, an appeal court sentenced him to six months in prison for “contempt for a member of the government.” On July 8, Lokondo was released due to time served. During his time in prison, he allegedly suffered from severe illnesses due to the prison conditions and from being assaulted by SSF during his arrest.

Police sometimes arbitrarily arrested and detained persons without filing charges to extort money from family members or because administrative systems were not well established.

The UNJHRO reported that on April 11, FARDC soldiers arbitrarily arrested and illegally detained at least 35 persons in Uvira, South Kivu Province, for not participating in scheduled weekly community work on the renovation of a road. The detainees were released after paying a fine.

Pretrial Detention: Prolonged pretrial detention, ranging from months to years, remained a problem. A local NGO, the Congolese Association for Access to Justice, estimated that between 75 and 80 percent of the prison population was in pretrial detention. Judicial inefficiency, administrative obstacles, corruption, financial constraints, and staff shortages also caused trial delays. According to a *Deutsche Welle* report in May, prisoners in Kasai-Oriental capital Mbuji Mayi's central prison and at the Ndolo military prison in Kinshasa were often denied their right to a trial.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Detainees are entitled to challenge in court the legal basis or arbitrary nature of their detention; however, few were able to obtain prompt release and compensation.

#### **e. Denial of Fair Public Trial**

Although the law provides for an independent judiciary, the judiciary was corrupt and subject to influence and intimidation. Officials and other influential individuals often subjected judges to coercion.

A shortage of prosecutors and judges hindered the government's ability to provide expeditious trials, and judges occasionally refused transfers to remote areas where shortages were most acute because the government could not support them there. Authorities routinely did not respect court orders. Disciplinary boards created under the High Council of Magistrates continued to rule on cases of corruption and malpractice. Rulings included the firing, suspension, or fining of judges and magistrates.

Military magistrates are responsible for the investigation and prosecution of all crimes allegedly committed by SSF members, whether or not committed in the line of duty. Civilians may be tried in military tribunals if charged with offenses

involving firearms. The military justice system often succumbed to political and command interference, and security arrangements for magistrates in areas affected by conflict were inadequate. Justice mechanisms were particularly ineffective for addressing misconduct by mid- and high-ranking officials due to a requirement the judge of a military court must outrank the defendant.

### **Trial Procedures**

The constitution provides for a presumption of innocence, but this was not always observed. Authorities are required to inform defendants promptly and in detail of the charges against them, with free interpretation as necessary, but this did not always occur. The public may attend trials at the discretion of the presiding judge. Defendants have the right to a trial within 15 days of being charged, but judges may extend this period to a maximum of 45 days. Authorities only occasionally abided by this requirement. The government is not required to provide counsel in most cases, with the exception of murder trials. While the government regularly provided free legal counsel to indigent defendants in capital cases, lawyers often did not have adequate access to their clients. Defendants have the right to be present and to have a defense attorney represent them. Authorities occasionally disregarded these rights. Authorities generally allowed adequate time to prepare a defense, although there were few resources available. Defendants have the right to confront witnesses against them and to present evidence and witnesses in their own defense, but witnesses often were reluctant to testify due to fear of retaliation. Defendants are not compelled to testify or confess guilt. Defendants have the right to appeal, except in cases involving national security, armed robbery, and smuggling, which the Court of State Security usually adjudicates.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees during the year. In July, however, HRW reported that 11 persons during the year had been arrested for “contempt of authority,” a crime under the law. Of these 11 cases, one was arrested for allegedly insulting the president, while the other 10 were arrested for alleged contempt against provincial authorities or parliamentarians.

Local civil society groups claimed that 23 individuals still imprisoned for the 2001 assassination of former president Laurent-Desire Kabila were political prisoners, because they had yet to be given a fair trial.

While the government permitted international human rights and humanitarian organizations and MONUSCO access to some prisoners, authorities always denied access to detention facilities run by the RG, military intelligence, and ANR (see section 1.c.).

### **Civil Judicial Procedures and Remedies**

Individuals may seek civil remedies for human rights violations within the civil court system. Most individuals, however, preferred to seek redress in the criminal courts.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the law prohibits arbitrary interference with privacy, family, home, or correspondence, the SSF routinely ignored these provisions. The SSF harassed and robbed civilians, entered and searched homes and vehicles without warrants, and looted homes, businesses, and schools. Family members were often punished for offenses allegedly committed by their relatives. The United Nations reported that as of June 30, military and police officers had committed 320 violations of the right to property.

#### **g. Abuses in Internal Conflict**

SSF continued fighting hundreds of disparate IAGs in the east of the country.

There were credible reports that the IAGs and SSF perpetrated serious human rights violations and abuses during internal conflicts. On June 30, the UNJHRO reported that IAGs in the country were responsible for a “staggering increase” in human rights abuses, noting that the number of abuses attributed to IAGs had increased by 91 percent during the same period in 2019. The United Nations reported that as of July 31, 41 members of armed groups were convicted of human rights abuses.

Conflicts continued in some of the eastern and northern provinces, particularly North Kivu, South Kivu, Tanganyika, Ituri, Maniema, Upper Uele, and Lower Uele, as well as in the Central Kasai region. IAGs continued to perpetrate violence against civilians; these include: the Nduma Defense of Congo-Renewal (NDC-R), the Democratic Forces for the Liberation of Rwanda (FDLR), Allied Democratic Forces (ADF), Lord’s Resistance Army, former fighters from the March 23

Movement, various Mai Mai (local militia) groups, and ethnically aligned militia groups in the Djugu area of Ituri Province, including those tied to the Congolese Development Cooperation (CODECO). Many IAGs originated in foreign countries or were predominantly composed of noncitizens.

Conflict among armed groups caused significant population displacement and led to many human rights abuses, especially in Ituri and North Kivu Provinces. In North Kivu Province, the NDC-R, Mai Mai Mazembe, ADF, FDLR, as well as a host of smaller armed groups fought among themselves and caused significant population displacements as they fought over territory. There were reports some elements within the FARDC collaborated with some factions of the NDC-R.

In July the International Crisis Group released a report on the past three years of intercommunal violence between Lendu and Hema groups in the Djugu area of Ituri Province. The report noted that most of the wave of violence had primarily been perpetrated by groups of Lendu youths, including the militia group CODECO, who were not necessarily well organized or supported by the majority of the Lendu community. These groups continued to attack Hema communities, other communal groups in the Djugu area, and the FARDC in increasingly brazen assaults, causing significant loss of life.

In a May report, the Congo Research Group assessed that the NDC-R, under commander Guidon Shimiray Mwissa (Guidon) between 2014 and 2020, emerged as the most dominant and effective rebel group in the country. The report described the NDC-R's successful development of parallel governance and tax schemes in the large, resource-rich areas under its control. According to the Congo Research Group, the NDC-R's success battling other major groups, such as the FDLR, allowed it to establish and maintain a collaborative relationship with the FARDC, in which NDC-R was permitted to hold territory, established businesses, and collected taxes, "mimicking the FARDC and the state." In return, the FARDC supplied NDC-R with ammunition and uniforms and allowed the group unhindered passage through large swaths of the east. In July local media reported the group split after the ousting of the group's commander, Guidon, and FARDC increased attacks on Guidon's faction in an attempt to execute the existing warrant for his arrest. Other armed groups took advantage of this instability to move into NDC-R-controlled territory. As of November, Guidon remained at large.

Operational cooperation between MONUSCO and the government continued in the east. The MONUSCO Force Intervention Brigade supported FARDC troops in North Kivu and southern Ituri Provinces. MONUSCO forces deployed and

conducted patrols to protect internally displaced persons from armed group attacks in North Kivu Province, southern Ituri Province, and South Kivu Province near Minembwe.

Killings: Data from UN reporting shows that on average, eight civilians were killed every day in conflict-affected areas.

As of June 30, the UNJHRO reported the SSF summarily killed 155 civilians in conflict-affected zones, a decrease compared with the 173 killings during the same period in 2019. In July the UN Office of the High Commissioner for Human Rights (OHCHR) released a report covering violence in North Kivu and Ituri Provinces between January 1, 2019, and January 31, 2020, related to the ADF and FARDC's campaign against that group. The report identified abuses committed by SSF during the campaign against ADF, especially following a large-scale deployment in October 2019. The report described eight summary executions by the FARDC and the arbitrary arrests of 91 persons, including at least four children.

The United Nations reported that on May 7, during operations against IAGs in the Rutshuru territory of North Kivu, a FARDC soldier in the 3416 regiment killed a three-year-old girl and injured one man and two women during an eviction. The soldier was arrested and detained by the military prosecutor, who subsequently opened an investigation into the killing.

UNJHRO also reported that IAGs killed at least 1,315 civilians, including 129 women, in the first six months of the year, a significant increase from the same period in 2019, during which 416 civilians were killed. As of June 30, violence attributed to various Lendu militias in Ituri Province resulted in at least 636 summary executions and an estimated 1.2 million internally displaced persons. Djugu-based assailants in Ituri Province were responsible for killing at least 525 individuals, largely during ambushes and attacks against villages targeting civilians. Sixty-one civilian deaths were attributed to the NDC-R. MONUSCO reported that on January 6, NDC-R combatants killed two women, wounded one man and another woman with machetes, and abducted two other men, in Masisi territory of North Kivu. The attack was reportedly an act of revenge against the civilian population whom the NDC-R combatants accused of facilitating the arrest of one of their group.

The Mai Mai Nyatura group summarily executed 98 civilians in conflict-affected provinces in the first half of the year, while the FDLR summarily executed at least 66 civilians.

The OHCHR report in July attributed “widespread, systematic, and extremely brutal” human rights violations to the ADF, including at least 496 civilian deaths. In follow-up reporting covering events between February 1 and June 30, OHCHR identified an additional 383 killings attributed to the ADF. For example, on May 18, in Beni territory of North Kivu, ADF combatants killed seven civilians with gunfire and machetes and injured three others. The ADF fighters burned down four houses during the attack.

Abductions: Of the 1,327 persons SSF arbitrarily arrested, many were in conflict-affected areas in the east of the country.

UN agencies and NGOs reported IAGs abducted individuals, generally to serve as porters or guides or to demand ransom for them. As of June 30, the United Nations reported that Djugu-based militias abducted at least 201 civilians, and that in total, IAGs abducted at least 118 children. Mai Mai Mazembe and NDC-R were the greatest perpetrators of child abductions.

On May 18, in Lubero, North Kivu Province, NDC-R fighters detained at least 70 persons, whom they tied up and beat with sticks and a rifle. The assailants took the victims to a camp, where they were held for ransom and forced to build shelters and carry water. The ADF reportedly also abducted individuals to serve as forced labor in camps. The OHCHR’s July report stated that the ADF abducted 508 persons, including 116 children.

As of August 5, Invisible Children’s Crisis Tracker documented 212 abductions, including the abduction of 16 children in Upper Uele and Lower Uele Provinces. The Lord’s Resistance Army was determined to be responsible for 153 of the abductions.

Physical Abuse, Punishment, and Torture: The FARDC, PNC, ANR, IAGs, and civilians perpetrated widespread sexual violence. As of July 31, the United Nations documented 501 adult victims and 64 child victims of sexual violence in conflict. Crimes of sexual violence were sometimes committed as a tactic of war to punish civilians for having perceived allegiances to rival parties or groups. The crimes occurred throughout the country but principally in the conflict zones in North and South Kivu Provinces.

UN agencies and NGOs reported that through June 30, the FARDC arrested, illegally detained, raped, and tortured at least 378 persons in conflict-affected

areas. During this period the FARDC forced 46 civilians, including one woman and one child, into labor. The government disputed these numbers.

IAGs also perpetrated numerous incidents of physical abuse and sexual violence. UN data showed that the FDLR, along with Twa militias and Djugu-based assailants, were the most prolific perpetrators of conflict-related sexual violence. The UNJHRO reported that most cases of rape committed by the FDLR took place in Nyiragongo territory, when women were on their way to Virunga National Park to collect firewood. MONUSCO reported that on May 2, in North Kivu's Nyiragongo territory, FDLR combatants raped two women, killing one of them. Twa militia members tended to target women working on farms or on their way to or from farming. For example, in April, Twa militiamen raped 16 women on their farms in Tanganyika Province before forcing them into the forest for the night and releasing them the next morning.

The UNJHRO reported at least 95 adult women were victims of sexual violence perpetrated by the armed group FLDR. At least 30 children were victims of sexual violence perpetrated by NDC-R.

MONUSCO's Child Protection Section reported that more than 80 percent of women and girls separated from armed group the Patriotic Resistance Forces of Ituri Province reported being victims of sexual violence. On February 14, a military court in Bunia, Ituri Province, convicted three members of the Patriotic Resistance Forces of Ituri of war crimes for rape, looting, and participation in an insurrectional movement. The three were sentenced to 20 years in prison.

On July 28, a military court in Bunia also convicted 15 members of CODECO and FPIC of participation in an insurrection movement, sentencing them each to 20 years in prison and a fine. In an effort to combat impunity for the violence in Ituri Province, the military court held the hearings in public.

On November 23, a military court convicted Nduma Defense of Congo (NDC) founder Ntabo Ntaberi Sheka for war crimes, mass rape, recruitment of child soldiers, murder, and multiple other crimes. Sheka surrendered to MONUSCO in 2017, and his trial started in 2018. While NGO representatives commended the high quality of evidence presented at the trial, they also raised concerns regarding its slow pace, witness intimidation, and the lack of appeals process under the law for war crimes trials.

A January report by OHCHR described mutilations, dismemberment, and other atrocities committed by Lendu militias and noted that the violence “could present at least some elements of the crime of genocide.”

Child Soldiers: There were no incidents of the FARDC using child soldiers. On August 3, the Ministry of Defense issued a decree reinforcing the prohibition on recruitment or use of child soldiers by the FARDC.

According to the United Nations, at least 952 children were separated from IAGs during the first six months of the year. The majority came from the Mai Mai Mazembe militia in North Kivu. The ADF continued to kidnap children and use them as combatants; OHCHR reported that the ADF forcibly recruited at least 56 children from January 2019 through January. NDC-R also recruited and used children. MONUSCO’s Child Protection Section reported 59 cases of child recruitment as of June 30, an all-time low number, and a significant decrease from the 601 children recruited in 2019.

The government continued to work with MONUSCO to engage directly IAGs to end the use of child soldiers. As of June 30, two years into the outreach, a total of 34 armed group commanders had pledged not to use or recruit children. The Ministry of Defense’s August 3 decree noted that any entity, including armed groups, convicted of recruiting or using children would be subject to 10 to 20 years of forced labor under the 2009 child protection law. On August 27, Radio Okapi reported the decree was already being implemented.

Also see the Department of State’s annual *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Other Conflict-related Abuse: Fighting between the FARDC and IAGs as well as among IAGs continued to displace populations and limit humanitarian access, particularly in Ituri Province; Rutshuru, Masisi, Walikale, Lubero, Beni, and Nyiragongo territories in North Kivu Province; South Kivu Province; Maniema Province; and Tanganyika Province.

In North Kivu, South Kivu, Ituri, Kasai Oriental, and Upper Katanga Provinces, both IAGs and elements of the FARDC continued to illegally tax, exploit, and trade natural resources for revenue and power. Clandestine trade in minerals and other natural resources facilitated the purchase of weapons and reduced government revenues. The natural resources most exploited were gold, cassiterite

(tin ore), coltan (tantalum ore), and wolframite (tungsten ore) but also included wildlife products, timber, charcoal, and fish.

The illegal trade in minerals financed IAGs and individual elements of the SSF. Both elements of the SSF and certain IAGs continued to control, extort, and threaten remote mining areas in North Kivu, South Kivu, Ituri, Maniema, and Haut Katanga Provinces and the Kasai region (see section 4.).

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The law provides for freedom of speech, including for the press, but the government did not always respect this right. The press frequently and openly criticized public officials and public policy decisions. Individuals generally could criticize the government, its officials, and other citizens in private without being subject to official reprisals. Public criticism, however, of government officials and corruption sometimes resulted in intimidation, threats, or arrest. Provincial-level governments also prevented journalists from filming or covering some protests. Through June 30, the UNJHRO documented human rights abuses against at least 47 journalists and other media professionals. An HRW report in July stated that provincial-level officials were using the national state of emergency related to COVID-19 to restrict press freedoms and detain journalists and activists who criticized them or their policies.

Freedom of Speech: The law prohibits insulting the head of state, malicious and public slander, and language presumed to threaten national security. Authorities sometimes intimidated, harassed, and detained journalists, activists, and politicians when they publicly criticized the government, president, or SSF.

On July 9, Henri Maggie, the vice-president of the youth league for former president Joseph Kabila's People's Party for Reconstruction and Democracy, was sentenced to 18 months in prison for contempt of President Felix Tshisekedi, under provisions of a 1963 ordinance that prohibits individuals from publicly insulting the head of state.

On May 9, in Lisala, Mongala Province, three activists--Peter Tetunabo, Taylor Engonga, and Yannick Mokanga--along with journalist Fabrice Ngani, were arrested when they delivered a note to the provincial parliament criticizing the governance record of Governor Crisbin Ngbundu Malengo. By June 8, all four had

been released. According to Reporters without Borders, on June 17, provincial authorities revoked reporting credentials from Ngani and five other journalists.

Freedom of Press and Media, Including Online Media: The law mandates the High Council for the Audiovisual and Communications to provide for freedom of the press and equal access to communications media and information for political parties, associations, and citizens. A large and active private press functioned in Kinshasa and in other major cities, and the government licensed a large number of daily newspapers. Radio remained the principal medium of public information due to limited literacy and the relatively high cost of newspapers and television. The state owned three radio stations and three television stations, and the former president's family owned two additional television stations. Government officials, politicians, and to a lesser extent church leaders, owned or operated the majority of media outlets.

The government required newspapers to pay a one-time license fee and complete several administrative requirements before publishing. Broadcast media were subject to a Directorate for Administrative and Land Revenue advertisement tax. Many journalists lacked professional training, received little or no set salary, could not access government information, and exercised self-censorship due to concerns of harassment, intimidation, or arrest.

In November local NGO Journalists in Danger (JED) reported 116 cases of attacks on media from November 2019 to October and attributed 35 of these attacks to ANR and PNC agents. Another 48 were attributed to provincial and local political authorities. JED reported one journalist killed, one disappeared, nine incarcerated, and 31 detained for more than the legal limit of 48 hours without being charged. At year's end the government had not sanctioned or charged any perpetrator of press freedom violations.

Violence and Harassment: Local journalists were vulnerable to intimidation and violence by the SSF.

HRW reported that on May 8, government security forces stopped three journalists working for Radio Fondation--Daniel Madimba, Serge Kayeye, and Jean-Baptiste Kabeya--at a roadblock on the outskirts of Mbuji-Mayi, Kasai Oriental Province. The two were accused of insulting Provincial Governor Jean Maweja Muteba and were subsequently assaulted. The following day, police arrested the radio station's program director, Faustin Mbiya, interrogated him, and accused him of "contempt of authority" and "public insult." On May 13, Mbiya was released without charge.

Local media reported that on July 4, PNC officers in Kinshasa detained Ange Makadi Ngoy, a journalist for the online news site *7sur7.cd*, as she filmed protests. Ange stated the officers confiscated her press badge and equipment.

Local media also reported that on July 12, the ANR arrested Patrick Palata, director of the Tala Tala TV station in Matadi, Kongo Central Province, for having broadcast a report on the shooting death of a local woman. Authorities confiscated his recordings, which contained witness testimony alleging that guards of Governor Atou Matubouana killed the woman. On July 14, Palata was released without charge.

Censorship or Content Restrictions: While the High Council for Audiovisual and Communications is the only institution with legal authority to restrict broadcasts, the government, including the SSF and provincial officials, also exercised this power.

Media representatives reported they were pressured by provincial government authorities not to cover events organized by the opposition or report news concerning opposition leaders.

JED reported that on May 26, Crispin Ngbundu, governor of Mongala Province, ordered the closure of four radio stations: Radio Mongala, The Voice of Bumba, The Rural Radio of Bumba, and Radio Mwana Mboka. Ngbundu's orders accused radio journalists of defamation and insulting provincial authorities. On June 17, Mongala provincial authorities issued an order for the immediate dismissal of six journalists from three of those stations: Fabrice Ngani, Victor Mbonzo, Tresor Emaka, and Jose Lingili from the Voice of Bumba; Olivier Peguy Yenga of Radio Mongala; and Benjamin Mondonga of Radio Mwana Mboka.

Libel/Slander Laws: The law does not consider the veracity of reported facts in the case of a defamation complaint. Instead, the judge is only to consider the damage to the accused from revelations in a journalist's work.

The national and provincial governments used defamation laws to intimidate and punish critics. On April 24, according to HRW, police in Gemena, Sud Ubangi Province, arrested Alexandre Robert Mawelu, a reporter for Radio Liberte, after he had criticized the provincial governor in a social media forum linked to his radio show. On April 29, Mawelu was granted provisional release, but he still faced

official charges of “contempt for a member of the government” and “defamatory statements” as of the end of July.

National Security: The national government used a law that prohibits anyone from making general defamatory accusations against the military to restrict free speech.

Nongovernmental Impact: IAGs and their political wings regularly restricted press freedom in the areas where they operated.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were some reports that the government monitored private online communications without appropriate legal authority.

### **Academic Freedom and Cultural Events**

There were no reported government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The government restricted freedoms of peaceful assembly and association.

#### **Freedom of Peaceful Assembly**

The constitution provides for freedom of peaceful assembly, but government authorities restricted this right and prevented those critical of the government from exercising their right to peaceful assembly, especially in Upper Uele, North Kivu, and Tanganyika Provinces. The law requires organizers of public events to notify local authorities in advance of the event. The government sometimes used this advance notification requirement to decline to authorize public meetings or protests organized by opposition parties or civil society groups critical of the government. During the COVID-19-related state of emergency, which lasted from March 24 through August 15, public gatherings of more than 20 persons were banned. The SSF beat, detained, or arrested persons participating in protests, marches, and meetings. The SSF also used tear gas, rubber bullets, and at times live ammunition, resulting in numerous civilian deaths and injuries.

Local media reported that on January 17, meetings called by opposition leader Martin Fayulu were banned in six cities. Protesters in Kinshasa and Kindu were violently dispersed.

The United Nations recorded 57 human rights violations committed by state agents related to the COVID-19 state of emergency. For example, on April 4, PNC officers arrested 14 members of the youth activist group LUCHA in Kinshasa as they were preparing to submit documentation to a COVID-19 working group. Police also beat some of them. The victims were accused of failing to comply with the state of emergency's limit on gatherings of more than 20 individuals.

On July 9, local media also reported that police in Kinshasa broke up a street protest against the COVID-19-related closure of the Zando market. During the scuffle three persons were killed, two were electrocuted by downed power lines, and one was crushed by the stampeding crowd.

MONUSCO reported that the majority of human rights abuses during the state of emergency came from individual SSF agents taking advantage of the situation to mistreat, arbitrarily arrest, or extort victims. The UNJHRO reported that on April 4, PNC officers arbitrarily arrested a woman and her daughter in Nyaragongo, North Kivu Province, under the pretext that the provincial governor's public health orders allowed police to arrest anyone caught chatting in the streets. The two women were forced to give police a bribe in order to be released.

The UNJHRO reported more restrictions on democratic space and human rights violations related to fundamental freedoms, compared with the same period in 2019. In the first six months of the year, the office documented 573 violations of democratic space, compared with 461 violations recorded during the same period in 2019. These included restrictions on freedom of assembly, the right to liberty and security of person, and of the right to freedom of opinion and expression.

### **Freedom of Association**

The constitution provides for freedom of association, and the government generally respected this right. Civil society organizations and NGOs are required to register with the government and may receive funds only through donations; they may not generate any revenue, even if it is not at a profit. The registration process was burdensome and very slow. Some groups, particularly within the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community, reported the government had denied their registration requests. Many NGOs reported that, even when

carefully following the registration process, it often took years to receive certification. Many interpreted registration difficulties as intentional government obstacles for impeding NGO activity.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government sometimes restricted these rights.

In-country Movement: The SSF established barriers and checkpoints on roads and at airports and markets, both for security reasons and to track movement related to the Ebola and COVID-19 outbreaks. Travel was significantly restricted during the COVID-19 state of emergency. The SSF routinely harassed and extorted money from civilians for supposed violations, sometimes detaining them until they or a relative paid. The government required travelers to submit to control procedures at airports and ports during domestic travel and when entering and leaving towns. IAGs engaged in similar activity in areas under their control, routinely extorting civilians at checkpoints and holding them for ransom.

Local authorities continued to collect illegal taxes and fees for boats to travel on many parts of the Congo River. There also were widespread reports FARDC soldiers and IAG combatants extorted fees from persons taking goods to market or traveling between towns (see section 1.g.).

The SSF sometimes required travelers to present travel orders from an employer or government official, although the law does not require such documentation. The SSF often detained and sometimes exacted bribes from individuals traveling without orders.

Foreign Travel: Because of inadequate administrative systems, passport issuance was irregular. Officials accepted bribes to expedite passport issuance, and there were reports the price of fully biometric passports varied widely.

### **e. Status and Treatment of Internally Displaced Persons**

The UN Office of the High Commissioner on Refugees (UNHCR) estimated that, including individuals displaced for longer than 12 months, there were 5.5 million internally displaced persons (IDPs), including 3.2 million children, in the country. The government was unable to consistently protect or assist IDPs adequately but generally allowed domestic and international humanitarian organizations to do so. The government sometimes closed IDP camps without coordinating with the international humanitarian community. UNHCR and other international humanitarian organizations worked to close IDP sites where the security situation was relatively stable.

Conflict, insecurity, and poor infrastructure adversely affected humanitarian efforts to assist IDPs. In August, UNHCR stated there were 1.7 million IDPs in Ituri Province; the agency had no access to certain zones in the region due to insecurity and inability to travel. Due to lack of funding, the humanitarian response plan for the country targeted only half of the persons in need in Ituri Province. Population displacements continued, particularly in the east. Many areas with IDPs continued to experience insecurity, such as North Kivu's Beni Territory, Ituri Province, South Kivu's Fizi Territory, and Maniema and Tanganyika Provinces. Intercommunal violence and fighting among armed groups in the east resulted in continued population displacement and increased humanitarian needs for IDPs and host communities.

Due to the remote location, weak civilian authority, and insecurity of the Kasai region, humanitarian access was difficult, and IDPs lived in poor conditions without adequate shelter or protection. Women and girls were particularly vulnerable to sexual violence, including gang rape. UNHCR representatives stated that 4,500 Congolese were forcibly repatriated from Angola in May and June. Seventy percent of returnees lingered along the DRC-Angola border, waiting to return to Angola if and when the situation there improved.

Combatants and other civilians abused IDPs. Abuses included killings, sexual exploitation of women and children (including rape), abduction, forced conscription, looting, illegal taxation, and general harassment.

#### **f. Protection of Refugees**

The government occasionally cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

As of June 30, UNHCR reported 528,752 refugees in the country, primarily from seven adjacent countries, of whom approximately 214,000 were from Rwanda. Of the refugees in the country, 63 percent were children.

Abuse of Migrants, Refugees, and Stateless Persons: Continuing conflict in North and South Kivu, Ituri, Upper Uele, and Tanganyika Provinces harmed refugees and IDPs in the regions, with attacks often resulting in deaths and further displacement. UNHCR reported Rwandan refugees in the Masisi Territory of North Kivu were subject to cyclical displacement as a result of FARDC and IAG operations and were forced to relocate to South Kivu Province.

Incursions by South Sudanese forces into areas of northern DRC affected security for asylum seekers, refugees and Congolese returnees, as well as local populations.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government established a rudimentary system for providing protection to refugees. The system granted refugee and asylum status and provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

As of June 30, there were 2,807 asylum seekers in the country. The government cooperated with UNHCR and other humanitarian organizations in assisting refugees and asylum seekers with welfare and safety needs. The government assisted in the safe, voluntary return of refugees to their homes by allowing their entry into the country and facilitating immigration processing. In establishing security mechanisms, government authorities did not treat refugees differently than citizens.

Durable Solutions: As of September, more than 1,100 refugees returned to the Central African Republic from the northern part of the country. COVID-19 restrictions prevented other voluntary returns.

The country did not invoke the cessation clause effective in 2013 for Rwandan refugees who fled Rwanda before the end of 1998. In 2016 the government joined other refugee-hosting countries and UNHCR to commit to facilitating repatriation of Rwandans from countries of asylum. To implement the tripartite agreement from 2014, the National Commission on Refugees and UNHCR began in 2016 the process of biometrically registering Rwandan refugees who opted to remain in the country. Refugees received long-term, renewable permits to remain in the country.

The program included a path to citizenship. Conflict impeded the process in North Kivu, where most of the refugees were located. UNHCR continued to support voluntary repatriation, and between January and August it assisted in repatriating 499 Rwandan refugees.

In late December 2019, local media reported that 1,919 Rwandan refugees in South Kivu Province were repatriated following a FARDC offensive against IAGs in the area. The population included former combatants and their family members. Of this population, 529 were refugees registered with UNHCR. UNHCR was unable to meet with the refugee population prior to the event to ascertain whether their return to Rwanda was voluntary. The event was not in accord with the UNHCR-DRC-Rwanda Tripartite Agreement on refugee returns.

As of September 30, UNHCR reported 281 refugees voluntarily returned to Burundi.

Temporary Protection: The government provided temporary protection to an undetermined number of individuals who may not qualify as refugees (see section 1.g.).

### **g. Stateless Persons**

The country has a population of de facto stateless residents and persons at risk of statelessness, including persons of Sudanese origin living in the northeast, Mbororo pastoralists in the far north, forced returnees from Angola and former Angolan refugees, mixed-race persons who are denied naturalization, and Congolese citizens without civil documentation. There were no accurate estimates of this population's size. The law does not discriminate in granting citizenship on the grounds of gender, religion, or disability; however, the naturalization process is cumbersome and requires parliamentary approval of individual citizenship applications. Persons whose names are not spelled according to local custom were often denied citizenship, as were individuals with lighter colored skin. Persons without national identification cards were sometimes arbitrarily arrested by the SSF.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

## **Elections and Political Participation**

Recent Elections: Presidential, legislative, and provincial elections were held in December 2018 and drew criticism grounded in procedural transparency concerns. The National Independent Electoral Commission (CENI) cancelled elections in Beni and Butembo in North Kivu Province, reportedly due to health concerns generated by the Ebola crisis, and in Yumbi in Mai Ndombe Province due to insecurity. Although the CENI organized legislative and provincial contests in those areas in March 2019, more than one million voters were disenfranchised from the presidential contest.

In January 2019 the CENI announced opposition candidate Tshisekedi won the presidential election, and in accordance with electoral law, the Constitutional Court confirmed the CENI's results later that month. In a statement the council of bishops criticized the outcome, noting "the results of the presidential election as published by the CENI do not correspond to the data collected by our observation mission."

Many international actors expressed concern regarding the CENI's decision to deny accreditation to several international election observers and media representatives. Some persons questioned the final election results due to press reports of unverified data leaked from unnamed sources indicating opposition candidate Martin Fayulu received the most votes. The election aftermath was calm, with most citizens accepting the outcome. In January 2019 Tshisekedi was sworn in as president, marking the first peaceful transfer of power since the country's independence in 1960.

Tshisekedi's Union for Democracy and Social Progress political party won 32 seats in the National Assembly, whereas the Common Front for Congo coalition won 335 seats of 500 seats total. Senatorial elections were held in March 2019 through an indirect vote by provincial assemblies.

Political Parties and Political Participation: The law recognizes opposition parties and provides them with "sacred" rights and obligations. Government authorities and the SSF, however, prevented opposition parties from holding public meetings, assemblies, and peaceful protests. The government and the SSF also limited opposition leaders' freedom of movement. The SSF used force to prevent or disrupt opposition-organized events.

State-run media, including television and radio stations, remained the largest sources of information for the public and government (see section 2.a.). There were reports of government intimidation of political opponents, such as denying opposition groups the right to assemble peacefully (see section 2.b.), and exercising political influence in the distribution of media content.

In a number of districts, known as *chefferies*, traditional chiefs perform the role of a local government administrator. Unelected, they are selected based on local tribal customs (generally based on family inheritance) and if approved are paid by the government.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did participate, although some ethnic groups in the restive east claimed discrimination. Women held 10 percent of seats in the National Assembly (52 of 500) and 10 percent in the provincial assemblies (72 of 690). In April 2019 Jeanine Mabunda was named president of the National Assembly, the second time a woman has held that position. Of 108 senators, 23 were women. Among the 66 government vice prime ministers, ministers, ministers of state, vice ministers, and minister delegates, 12 were women, an increase in the total number from that of the previous government (from 10 percent of 59 such positions to 17 percent of 65 such positions). Some observers believed cultural and traditional factors prevented women from participating in political life to the same extent as men.

Some groups, including indigenous persons, claimed they had no representation in the Senate, National Assembly, or provincial assemblies. Discrimination against indigenous groups continued in some areas, such as Equateur, East Kasai, and Upper Katanga Provinces, and contributed to their lack of political participation (see section 6).

The national electoral law prohibits certain groups of citizens from voting in elections, in particular members of the armed forces and the national police.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Local NGOs blamed these levels of corruption, in part, to the lack of a law providing for access to public information.

In March, President Tshisekedi created the Agency for the Prevention and Fight against Corruption (APLC). A special service under the Office of the President, the APLC is responsible for coordinating all government entities charged with fighting corruption and money laundering, conducting investigations with the full authority of judicial police, and overseeing transfer of public corruption cases to appropriate judicial authorities.

Corruption: Corruption by officials at all levels as well as within state-owned enterprises continued to deprive state coffers of hundreds of millions of dollars per year. In an interview on social media in April, former presidential corruption advisor Luzolo Bambi and Director of the Congolese Association for Access to Justice Georges Kapiamba alleged that the government lost approximately \$15 billion per year due to corruption.

On March 23, the Court of Cassation convicted former minister of health Oly Ilunga Kalenga and his financial advisor Ezechiel Mbuyi Mwasa of embezzling \$400,000 in funds intended for the Ebola outbreak response. Both were sentenced to five years in prison.

On June 20, Vital Kamerhe, the chief of staff to President Tshisekedi, was convicted by a Kinshasa court of a range of charges, including embezzlement of public funds, money laundering, and corruption. Kamerhe was sentenced to 20 years in prison, fined several million dollars, and stripped of the right to vote and hold public office for 10 years after serving his sentence. The court found Kamerhe responsible for embezzling tens of millions of dollars earmarked for President Tshisekedi's 100 Days infrastructure development program. Two codefendants were also found guilty on corruption charges: Lebanese businessman Jammal Samih and presidency advisor on import/export matters Jeannot Muhima. Kamerhe's sentence was the highest-level conviction of a public servant in the country's history.

On June 23, the same Kinshasa court convicted two government officials-- Benjamin Wenga, director of the Office of Roads and Drainage, and Fulgence Bamaros, director of the National Road Maintenance Fund--of embezzlement. Both Wenga and Bamaros were sentenced to three years in prison for their role in misappropriating funds from Tshisekedi's 100 Days program. A codefendant, director of the Congolese Construction Company Modese Makabuza, was found guilty of complicity and sentenced to one year of forced labor.

Office of Roads Director Herman Mutima was imprisoned for nearly six months due to corruption allegations related to the 100 Days program. On August 22, he was acquitted by a Kinshasa court and released from jail.

In January the Congolese Association for Access to Justice released a report accusing parastatal mining company Gecamines of failing to repay a \$222 million loan from Fleurette Mumi, a company owned by sanctioned businessman Dan Gertler. Reuters reported that prosecutors were investigating possible money laundering and fraud related to the 2017 loan, and Yuma was barred from leaving the country. In a May Council of Ministers meeting, President Tshisekedi instructed the minister of portfolio to submit a detailed report on the allegations. As of November the investigation continued.

Elements of the SSF were undisciplined and corrupt. PNC and FARDC units regularly engaged in illegal taxation and extortion of civilians. They set up checkpoints to collect “taxes,” often stealing food and money and arresting individuals who could not pay bribes. The UNJHRO reported that during the COVID-19 state of emergency, the SSF took advantage of government restrictions to mistreat and extort civilians for not observing orders on curfew or wearing masks.

The law prohibits the FARDC from engaging in mineral trade, but the government did not effectively enforce the law. Criminal involvement by some FARDC units and IAGs included protection rackets, extortion, and theft. The illegal trade in minerals was both a symptom and a cause of weak governance. It illegally financed IAGs and individual elements of the SSF and sometimes generated revenue for traditional authorities and local and provincial governments. A 2019 report from the International Peace Information Service (IPIS), a Belgian research group, determined that in the trading hub of Itebero, North Kivu Province, traders paid \$10 per ton of coltan to the president of the local trading association, who distributed this money to the FARDC, ANR, and Directorate General for Migration. Individual FARDC commanders also sometimes appointed civilians with no overt military connection to manage their interests at mining sites covertly.

Artisanal mining remained predominantly informal and illicit and strongly linked to both armed groups and certain elements of the FARDC. Artisanal mining products, particularly gold, were smuggled into Uganda and Rwanda, often with the connivance of government officials. In June the UN Group of Experts reported that the country’s “gold sector remained vulnerable to exploitation by armed groups and criminal networks...” thereby hindering traceability programs and the

viability of legal trading. The report highlighted that Ituri Province was a major source of smuggled gold found in Uganda. The Group of Experts determined that Mai Mai Yakutumba financed its activities through gold from sites in Misisi, in South Kivu Province. Similarly, Mai Mai Malaika profited from artisanal gold mining at the Namoya Mining site in Salamabila, in Maniema Province. The UN Group of Experts also reported that FARDC soldiers regularly accepted bribes from artisanal miners to access the Namoya site, which was owned by the Banro Mining Corporation. Mining experts and law enforcement officers interviewed in the report described natural resource-related crimes as “quick cash” and explained that violators often bribed law enforcement agencies to secure safe transit of illegal goods.

As of 2017 research by IPIS estimated 44 percent of artisanal mine sites in the east were free of illegal control or taxation from either elements of the SSF or IAGs, 38 percent were under the control of elements of the FARDC, and the remainder were under the control of various armed groups. In areas affected by conflict, both IAGs and elements of the SSF regularly set up roadblocks and ran illegal taxation schemes. In 2019 IPIS published data showing state agents regularly sold tags meant to validate clean mineral supply chains. The validation tags--a mechanism designed to reduce corruption, labor abuses, trafficking in persons, and environmental destruction--were regularly sold to smugglers.

A June report from the UN Group of Experts found armed groups regularly financed their activities through illegal mining. The report documented cases of certain FARDC units involved in the illegal exploitation of gold resources. In Fizi, South Kivu Province, the Kachanga mine was controlled by some FARDC members, who collected a daily fee from anyone entering the mine. According to the report, that money was sent to the military hierarchy of the 33rd military region. Members of the 3306th regiment also allegedly provided protection to gold dredging company Congo Bluant Minerals, in Mwenga and Shabunda, South Kivu Province, despite the company’s operations having been officially suspended in 2019.

The UN Group of Experts also reported that several armed groups, including Alliance of Patriots for a Free and Sovereign Congo, Mai Mai Nyatura, Force for the Defense of Human Rights, Mai Mai Malaika, and Mai Mai Yakutumba financed activities through the control of artisanal gold and coltan mining sites in North and South Kivu Provinces.

As in previous years, a significant portion of the country's enacted budget included off-budget and special account allocations that were not fully published. These accounts facilitated graft by shielding receipts and disbursements from public scrutiny. The special accounts pertained to eight parastatal organizations that raised revenues that were not channeled through the government's tax collection authorities. "Special accounts" are subjected to the same auditing procedures and oversight as other expenditures; however, due in large part to resource constraints, the Supreme Audit Authority did not always publish its internal audits, or in many cases published them significantly late. Under the Extractive Industries Transparency Initiative standard of 2016, the government is required to disclose the allocation of revenues and expenditures from extractive companies. In June 2019 the Extractive Industries Transparency Initiative board noted the country had made meaningful progress in its implementation of the 2016 standard but also expressed concern regarding persistent corruption and mismanagement of funds in the extractive sector.

In September local media reported that the financial inspector general was investigating the management of both the Bukangalonzo agroindustrial park and the Go-Pass airport tax, as part of its efforts to inform the population of extant cases of financial wrongdoing.

Financial Disclosure: The law requires the president and ministers to disclose their assets to a government committee. The president and all ministers and vice ministers reportedly did so when they took office. The committee had yet to make this information public.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Elements of the SSF continued to kill, harass, beat, intimidate, and arbitrarily arrest and detain domestic human rights advocates and domestic NGO workers, particularly when the NGOs reported on or supported victims of abuses by the SSF or reported on the illegal exploitation of natural resources in the east. IAGs repeatedly targeted local human rights defenders for violent retribution when they spoke out against abuses. Representatives from the Ministry of Justice and the ANR met with domestic NGOs and sometimes responded to their inquiries.

Government Human Rights Bodies: During the year the National Commission on Human Rights published reports and made public statements on prison conditions, the Universal Periodic Review, and human rights violations during the COVID-19

state of emergency. It also held human rights training sessions for magistrates, visited detention centers, conducted professional development workshops for human rights defense networks in the interior, and followed up on complaints of human rights abuses from civilians.

The Human Rights Ministry made public statements condemning arbitrary arrests of journalists and human rights defenders and called for impartial investigations into April violence by the PNC and other state security forces in Kinshasa and Kongo Central during operations against the Bundu Dia Kongo group. The ministry also developed a plan for eliminating the worst forms of child labor in mining communities.

Both the National Commission on Human Rights and the Human Rights Ministry continued to lack sufficient funding for overhead costs and full-time representation in all 26 provinces.

The United Nations or Other International Bodies: The government cooperated at times with investigations by the United Nations and other international bodies but was not consistent in doing so. For example, the government refused to grant the United Nations access to certain detention centers, particularly at military installations such as military intelligence headquarters. The government and military prosecutors cooperated with the UN team supporting investigations related to the 2017 killing of two UN experts, Michael Sharp and Zaida Catalan, in Kasai Central Province. In May, Tresor Mputu Kankonde, a former leader of the Kamuina Nsapu militia, and one of the suspects alleged to be responsible for the killing of Sharp and Catalan, was arrested by military police in Kasai Central Province. In a press statement, the head of the Kasai Central military prosecutor's office stated Mputu would be prosecuted for murder. On October 20, following six months during which it was put on hold due to COVID-19, the trial reconvened.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law on sexual violence criminalizes rape, but the offense was not always reported by victims, and the law was not always enforced. Rape was common. The legal definition of rape does not include spousal rape or intimate partner rape. It also prohibits extrajudicial settlements (for example, a customary fine paid by the perpetrator to the family of the victim) and forced marriage, allows victims of sexual violence to waive appearance in court,

and permits closed hearings to protect confidentiality. The minimum penalty prescribed for conviction of rape is a prison sentence of five years, and courts regularly imposed such sentences in rape convictions. Some prosecutions occurred for rape and other types of sexual violence.

From January through June, the UNJHRO reported at least 436 women and 183 girls were victims of sexual and gender-based violence in conflict-affected areas. IAGs frequently used rape as a weapon of war (see section 1.g.).

Government agents raped and sexually abused women and girls during arrest and detention, as well as during the course of military action. MONUSCO reported 148 cases of sexual violence attributed to FARDC and PNC agents as of June 30. The UNJHRO stated nearly one-third of sexual violence cases committed against girls were committed by the SSF. While it was a problem throughout the country, the majority of cases took place in areas affected by internal conflict. The PNC continued its nationwide campaign, with support from MONUSCO, to eliminate sexual and gender-based violence by the SSF, including through the fight against impunity and the protection of victims and witnesses. The campaign operationalizes the national action plan to combat sexual and gender-based violence; however, as of year's end the plan had not been fully funded and few activities had taken place.

On July 7, Colonel Jean Daniel Apanza, head of the military's internal commission to combat sexual violence, reaffirmed the FARDC's principle of "zero tolerance for cases of sexual violence."

MONUSCO reported that on January 15, the military court in Bukavu, South Kivu Province, convicted one FARDC soldier and one PNC officer on charges of rape. The soldier and officer were sentenced to 20 years in prison each. During the same hearing, five other FARDC soldiers were convicted of other human rights abuses and received prison sentences.

Most survivors of rape did not pursue formal legal action due to insufficient resources, lack of confidence in the justice system, family pressure, and fear of subjecting themselves to humiliation, reprisal, or both.

The law does not provide any specific penalty for domestic violence despite its prevalence. Although the law considers assault a crime, police rarely intervened in perceived domestic disputes. There were no reports of judicial authorities taking action in cases of domestic or spousal abuse.

Female Genital Mutilation/Cutting (FGM/C): The law describes FGM/C as a form of sexual violence and provides for a sentence of two to five years in prison and substantial fines if convicted; in case of death due to FGM/C, the sentence is life imprisonment.

Other Harmful Traditional Practices: UNICEF and MONUSCO attributed some abuses of children, including sexual violence against young girls, to harmful traditional and religious practices. Perpetrators allegedly targeted children because they believed harming children or having sex with virgins could protect against death in conflict.

Sexual Harassment: Sexual harassment occurred throughout the country. The law prohibits sexual harassment and stipulates a minimum sentence of one year if convicted, but there was little or no effective enforcement of the law.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: The constitution prohibits discrimination based on gender, but the law does not provide women the same rights as men. The law provides women a number of protections. It permits women to participate in economic domains without approval of male relatives, provides for maternity care, disallows inequities linked to dowries, and specifies fines and other sanctions for those who discriminate or engage in gender-based abuse. Women, however, experienced economic discrimination. There were legal restrictions on women in employment--including limitations on occupations considered dangerous--but no known restrictions on women's working hours.

According to UNICEF, many widows were unable to inherit their late husbands' property because the law states that in event of a death in which there is no will, the husband's children, including those born out of wedlock (provided they were officially recognized by the father), rather than the widow, have precedence with regard to inheritance. Courts may sentence women found guilty of adultery to up to one year in prison, while adultery by men is punishable only if judged to have "an injurious quality."

## **Children**

Birth Registration: The law provides for the acquisition of citizenship through birth within the country or from either parent being of an ethnic group documented as having been located in the country in 1960. The government registered 25 percent of children born in some form of medical facility. Lack of registration rarely affected access to government services.

Education: The constitution provides for tuition-free and compulsory primary education. Despite President Tshisekedi's policy of free primary education, the government was unable to provide it consistently in all provinces. Public schools generally expected parents to contribute to teachers' salaries. These expenses, combined with the potential loss of income from their children's labor while they attended class, rendered many parents unable or unwilling to enroll their children. Primary and secondary schools were closed during the COVID-19 state of emergency.

Secondary school attendance rates for girls were lower than for boys due to financial, cultural, or security reasons, including early marriage and pregnancy for girls. There were reports of teachers pressuring girls for sexual favors in return for higher grades.

Many of the schools in the east were dilapidated and closed due to chronic insecurity. Schools were sometimes targeted in attacks by IAGs. Parents in some areas kept their children from attending school due to fear of IAG forcible recruitment of child soldiers.

Child Abuse: Although the law prohibits all forms of child abuse, it regularly occurred. The constitution prohibits parental abandonment of children accused of sorcery. Nevertheless, parents or other care providers sometimes abandoned or abused such children, frequently invoking "witchcraft" as a rationale. The law provides for the imprisonment of parents and other adults convicted of accusing children of witchcraft. Authorities did not implement the law.

Many churches conducted exorcisms of children accused of witchcraft. These exorcisms involved isolation, beating and whipping, starvation, and forced ingestion of purgatives. According to UNICEF some communities branded children with disabilities or speech impediments as witches. This practice sometimes resulted in parents' abandoning their children.

Child, Early, and Forced Marriage: While the law prohibits marriage of boys and girls younger than age 18, many marriages of underage children took place.

Bridewealth (dowry) payment made by a groom or his family to the relatives of the bride to ratify a marriage greatly contributed to underage marriage, as parents forcibly married daughters to collect bridewealth or to finance bridewealth for a son.

The constitution criminalizes forced marriage. Courts may sentence parents convicted of forcing a child to marry to up to 12 years' hard labor and a fine. The penalty doubles when the child is younger than age 15.

Sexual Exploitation of Children: The minimum age of consensual sex is 18 for both men and women, and the law prohibits prostitution by anyone younger than age 18. The penal code prohibits child pornography, with imprisonment of 10 to 20 years for those convicted. The law criminalizes child sex trafficking, with conviction carrying penalties ranging from 10 to 20 years' imprisonment and a heavy fine. From January through June, UNICEF assisted 2,018 children (1,999 girls and 19 boys) who were victims of sexual exploitation. Most of these children were provided with a holistic response including psychosocial care, medical care, socioeconomic reintegration, and legal assistance.

There were also reports child soldiers, particularly girls, faced sexual exploitation (see section 1.g.).

Displaced Children: According to the 2007 *Rapid Assessment, Analysis, and Action Planning Report*, which was the most recent data available, there were an estimated 8.2 million orphans, children with disabilities, and other vulnerable children in the country. Of these, 91 percent received no external support of any kind and only 3 percent received medical support. In 2019 the NGO Humanium estimated 70,000 children lived on the streets, with at least 35,000 in Kinshasa. The families of many of these children forced them out of their homes, accusing them of witchcraft and causing misfortune.

UNICEF registered 2,646 orphans who lost parents to the Ebola virus, during an outbreak in the eastern part of the country that was officially declared ended on June 25. During the outbreak 1,604 children were separated from their parents--either because they were isolated after being in contact with an Ebola-affected individual or because their parents were undergoing treatment. These children received psychosocial support in UNICEF-supported nurseries.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the

Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The country had a very small Jewish population, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The constitution prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities and requires the state to promote their participation in national, provincial, and local institutions. The constitution states all persons should have access to national education. The law states private, public, and semipublic companies may not discriminate against qualified candidates based on disability. The government did not enforce these provisions effectively, and persons with disabilities often found it difficult to obtain employment, education, and other government services.

As of November the law did not mandate access to government buildings or services for persons with disabilities including access to health care, information, communication, transportation, the judicial system, or other state services. While persons with disabilities may attend public primary and secondary schools and have access to higher education, no reasonable accommodations are required of educational facilities to support their full and equal inclusion. Consequently, 90 percent of adults with disabilities did not achieve basic literacy. The Ministry of Education increased its special education outreach efforts but estimated it was educating fewer than 6,000 children with disabilities.

Disability groups reported extensive social stigmatization, including children with disabilities being expelled from their homes and accused of witchcraft. Families sometimes concealed their children with disabilities due to shame.

### **Members of National/Racial/Ethnic Minority Groups**

Ethnic Twa persons frequently faced severe societal discrimination and had little protection from government officials (see section 1.g.).

There were reports of societal discrimination and violence against foreign minority groups.

### **Indigenous People**

Estimates of the country's indigenous population (Twa, Baka, Mbuti, Aka, and others believed to be the country's original inhabitants) varied greatly, from 250,000 to two million. Societal discrimination against these groups was widespread, and the government did not effectively protect their civil and political rights. Most indigenous persons took no part in the political process, and many lived in remote areas. Fighting in the east between IAGs and the SSF, expansion by farmers, and increased trading and excavation activities caused displacement of some indigenous populations.

While the law stipulates indigenous populations receive 10 percent of the profits gained from use of their land, this provision was not enforced. In some areas, surrounding tribes kidnapped and forced indigenous persons into slavery, sometimes resulting in ethnic conflict (see section 1.g.). Indigenous populations also reported high instances of rape by members of outside groups, which contributed to HIV/AIDS infections and other health complications.

On August 8, the International Day for Indigenous Peoples, President Tshisekedi gave a speech condemning the social stigmatization and lack of economic opportunity for the “pygmy” people.

### **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

While no law specifically prohibits consensual same-sex sexual conduct between adults, individuals engaging in public displays of consensual same-sex sexual conduct, such as kissing, were sometimes subject to prosecution under public indecency provisions, which society rarely applied to opposite-sex couples. A local NGO reported authorities often took no steps to investigate, prosecute, or punish officials who committed abuses against FLGBI persons, whether in the security forces or elsewhere in the government, and impunity for human rights abuses was a problem.

Identifying as lesbian, gay, bisexual, transgender, or intersex remained a cultural taboo, and harassment by SSF and judiciary occurred.

LGBTI individuals were subjected to harassment, stigmatization, and violence, including “corrective” rape. Some religious leaders, radio broadcasts, and political organizations played a key role in supporting discrimination against LGBTI individuals.

LGBTI persons in South Kivu Province reported that in 2018 a coalition of revivalist churches in Bukavu published materials characterizing LGBTI persons as against the will of God. The publications contributed to a deteriorating environment for LGBTI rights in the area. Advocates in the eastern part of the country reported arbitrary detentions, acts of physical violence, including beatings, being stripped naked, sexual abuse in public settings, and rape. In some cases LGBTI persons were forced by threats of violence to withdraw from schools and other public and community institutions.

### **HIV and AIDS Social Stigma**

The law prohibits discrimination based on HIV status, but social stigma continued.

The *Demographic and Health Survey 2013-14* captured a proxy indicator measuring the level of tolerance of respondents towards an HIV-positive person (either family member, businessperson, or teacher) and the necessity of hiding the HIV-positive status of a family member. A total of 72 percent of respondents said they were ready to take care of an HIV-positive parent, but only 47 percent expressed willingness to purchase produce from an HIV-positive seller. A total of 49 percent of respondents would accept having an HIV-positive teacher teach their children, and 26 percent said it would not be necessary to hide the HIV status of a family member. The study estimated a global tolerance level towards HIV-positive persons at 4 percent in women and 12 percent in men.

### **Other Societal Violence or Discrimination**

Discrimination against persons with albinism was widespread and limited their ability to marry and obtain employment, health care, and education. Families and communities frequently ostracized persons with albinism. Civil society groups reported albinos were killed and their bodies disinterred from their graves and cut

up for use in rituals meant to grant special power to anyone, from soccer teams to political campaigns, for example.

Long-standing ethnic tensions also fueled some community violence. During the first half of the year, Hutu populations in North Kivu were subject to forced displacement by both the SSF and IAGs operating in the area. Intercommunal violence between Hema and Lendu groups in Ituri Province resulted in killings and displacement (see section 1.g.).

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The constitution and law provide all workers, including those in both the informal and formal sectors, except top government officials and SSF members, the right to form and join trade unions and to bargain collectively. The law also provides for the right of most workers to conduct legal strikes. It is against the law, however, for police, army, directors of public and private enterprises, and domestic workers to strike. The law gives administrative authorities the right to dissolve, suspend, or deregister trade union organizations. It also grants unions the right to conduct activities without interference, although it does not define specific acts of interference. In the private sector, a minimum of 10 employees is required to form a union within a business, and a single business may include members of more than one union. Foreigners may not hold union office unless they have lived in the country for at least 20 years, a length of time deemed excessive by the International Labor Organization (ILO). Collective bargaining requires a minimum of 10 union committee members and one employer representative; union committee members report to the rest of the workforce. In the public sector, the government sets wages by decree after holding prior consultations with unions. Certain subcategories of public employees, such as staff members of decentralized entities (towns, territories, and sectors), do not have the right under the law to participate in the wage-setting consultations.

Union committees are required to notify company management of a planned strike, but they do not need authorization to strike. The law stipulates unions and employers shall adhere to lengthy compulsory arbitration and appeal procedures before unions initiate a strike. Generally the committee delivers a notice of strike to the employer. If the employer does not reply within 48 hours, the union may strike immediately. If the employer chooses to reply, negotiations, which may take up to three months, begin with a labor inspector and ultimately continue in the

Peace Court. Sometimes, employees provide minimum services during negotiations, but this is not a requirement. Unless unions notify employers of a planned strike, the law prohibits striking workers from occupying the workplace during a strike, and an infraction of the rules on strikes may lead to incarceration of up to six months with compulsory prison labor. This rule was not enforced, and no one was reported to have been imprisoned.

The law prohibits discrimination against union employees and requires employers to reinstate workers dismissed for union activities, but the associated penalties were not adequate to deter violations. Penalties were not commensurate with penalties for other civil rights violations. The law considers those who have worked for a minimum of three continuous months as “workers” and thereby protected by relevant labor law. Unless they are part of a union, most workers in agricultural activities and artisanal mining, domestic and migrant workers, and workers in export-processing zones were unfamiliar with their labor rights and did not often seek redress when employers breached applicable labor laws.

The government recognizes 12 private-sector and public-enterprise unions at the national level. The public administration sector has a history of organizing, and the government negotiates with sector representatives when they present grievances or go on strike. Of the 15 national unions that represented the public administration sector, five accounted for the majority of the workers.

Workers exercised their right to strike. Workers in the public and private sectors held strikes regarding unpaid salaries. Local media reported that PNC officers occasionally violently broke up these protests. In May miners at Tenke Fungurume copper and cobalt mine went on strike and successfully demanded payment of a special allowance for continuing work while under a two-month quarantine due to COVID-19. Other mines were similarly placed under lockdown measures with quarantined workers raising concerns regarding overtime pay and unsafe working conditions, but it was unclear how and whether matters were resolved.

The government did not effectively enforce the law. In small and medium-sized businesses, workers could not effectively exercise the right to strike. Due to lax enforcement of labor regulations and lack of funding for the General Labor Inspectorate, companies and shops could immediately replace any workers attempting to unionize, bargain collectively, or strike with contract workers to intimidate the workers and prevent them from exercising their rights, despite legal protections. Antiunion discrimination was widespread, particularly in foreign-

owned companies. In many instances companies refused to negotiate with unions and negotiated individually with workers to undermine collective bargaining efforts. Unions had an active complaint with the ILO pertaining to past allegations of interference in union elections.

Despite collective agreements on union dues, employers often did not remit union dues or did so irregularly.

### **b. Prohibition of Forced or Compulsory Labor**

The constitution prohibits all forms of forced or compulsory labor. Penalties were commensurate with the penalties for other serious crimes.

In cases of nonpayment of requisite and applicable taxes, the law allows for arrest and forced labor as a penalty to repay the tax debt. This had not been put into practice, however.

The government did not effectively enforce the law. There were reports that forced labor, including forced child labor, regularly occurred throughout the country. Violations included bonded labor, domestic servitude, and slavery. In the artisanal mining sector, individuals took on debt from intermediaries and dealers to acquire food, supplies, and mining equipment, often at high interest rates. Miners who failed to provide sufficient ore to pay their debt were at risk of debt bondage. The government continued to try to formalize the artisanal mining sector but did not attempt to regulate the practice. In the east IAGs continued to abduct and forcibly recruit men, women, and children to serve as laborers, porters, domestic laborers, and combatants (see section 1.g.). In eastern mining regions, there were reports that armed groups violently attacked mining communities and surrounding villages and held men, women, and children captive for trafficking, including forced labor and sexual exploitation. In North Kivu and South Kivu Provinces, some members of FARDC units and IAGs taxed or, in some cases, controlled mining activities in gold, coltan, wolframite, and cassiterite mines. There were no reports of FARDC units forcing persons to work in mines. IAGs sometimes forced local communities to perform construction work and other labor at mine sites. The government did not effectively enforce laws banning this practice.

On August 3, the Human Rights Ministry launched a plan to monitor human rights and labor abuses in mining communities in accordance with the Voluntary Principles Initiative on Security and Human Rights, by establishing local oversight

commissions consisting of government representatives, civil society groups, and private companies.

Some police officers arrested individuals arbitrarily to extort money from them (see section 1.d.). There were reports in North and South Kivu Provinces of police forcing those who could not pay to work until they “earned” their freedom.

The government did not effectively enforce laws prohibiting forced or compulsory labor and took no action against those who used forced labor and abducted civilians for forced labor. The government did not report any official forced labor investigations, and there were no prosecutions. Little if any information existed on the removal of victims from forced labor.

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The government prohibits all of the worst forms of child labor. The law sets the minimum age for work at 16, and a ministerial order sets the minimum age for hazardous work at 18. The law also stipulates children may not work for more than four hours per day and restricts all minors from transporting heavy items. Penalties are not commensurate with other serious crimes.

Government enforcement of child labor law remained weak. While criminal courts heard some child labor complaints, it was unclear if these resulted in sentences. The government did not allocate child labor-specific budgetary resources to the relevant ministries and the National Committee to Combat the Worst Forms of Child Labor.

The Ministry of Labor has responsibility for investigating child labor abuses but had no dedicated child labor inspection service. In 2016 the National Labor Committee adopted an action plan to fight the worst forms of child labor, slated for implementation during the year; however, as of December it had not been implemented. In August the General Labor Inspectorate issued a plan to conduct a child labor survey and develop a roadmap to review and curb the use of child labor in the rice sector in Kongo Central Province. Other government agencies responsible for combating child labor include the Ministry of Gender, Family, and Children; Ministry of Justice; Ministry of Social Affairs; and National Committee

to Combat the Worst Forms of Child Labor. These agencies had no budgets for inspections and conducted no specialized investigations for child labor.

The law prohibits violations of child labor laws in the mining sector and imposes fines in cases of violations. Nonetheless, various mining sites, located principally in North Kivu and Upper Katanga Provinces, employed many child workers. The working conditions for children at these mining sites were poor. Treated as adults, children worked without breaks and without any basic protective measures.

The FARDC deployed a battalion in June to dismantle illegal artisanal mines in the southeast, where working conditions were hazardous and child labor was prevalent. Soldiers cleared thousands of illegal miners from industrial cobalt and copper concessions, reportedly burning dozens of homes and ransacking a school in the process. The FARDC, mining police, and private security forces, including those guarding large-scale mining concessions, reportedly subjected child laborers on artisanal mining sites to extortion and physical abuse.

There was a systematic government effort to redirect child labor away from mines. The government and the African Development Bank continued an 80-million-dollar project to provide alternative livelihoods for children engaged in the cobalt sector. In 2019 World Vision announced it had reduced exploitation and the worst forms of child labor for 1,380 children in mining sites through the provision of vocational training and schooling opportunities.

The Ministry of Mines prohibits artisanal mines with child labor from exporting minerals; however, the ministry had limited enforcement capacity.

In 2019 the government undertook a \$2.5-million project to boost the capacity of labor inspectors to prevent children younger than age 18 from engaging in hazardous work in mines. In addition in March the Ministry of Mines issued a decree forming an interministerial commission with the Ministry of Labor to inspect child labor in artisanal mines. As of September the commission had yet to take action, due to the COVID-19 pandemic.

In August the human rights minister issued a decree operationalizing the government's commitment to joining the Voluntary Principles Initiative on Security and Human Rights in the extractive sector, which provides a roadmap towards comprehensive human rights oversight of mining communities and stipulates zero tolerance for the worst forms of child labor.

In August the PNC approved a mining police handbook codifying the mining police's specialized unit's duties in the protection and enforcement of human rights, including combatting child labor, in mining areas.

Child labor, including forced child labor, was a problem throughout the country (see section 7.b.). Child labor was most common in the informal sector, including in artisanal mining and subsistence agriculture. According to the Ministry of Labor, children worked in mines and stone quarries and as child soldiers, water sellers, domestic workers, and entertainers in bars and restaurants. The commercial sexual exploitation of children also occurred (see section 6).

Various mining sites, located principally in the eastern regions of North Kivu and Katanga Provinces, employed many child workers. The working conditions for children at these mining sites were poor. Treated as adults, children worked without breaks and without any basic protective measures.

Children were also the victims of exploitation in the worst forms of child labor, many of them in agriculture, illicit activities, and domestic work. Children mined diamonds, gold, cobalt, coltan, wolframite, copper, and cassiterite under hazardous conditions. In the mining regions of Upper Katanga, Kasai Oriental, Kasai Central, North Kivu, and South Kivu Provinces, children sifted, cleaned, sorted, transported heavy loads, and dug for minerals underground. In many areas of the country, children between ages five and 12 broke rocks to make gravel.

Parents often used children for dangerous and difficult agricultural labor. Families unable to support their children occasionally sent them to live with relatives who treated them as domestic slaves, subjecting them to physical and sexual abuse.

Also, see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>, and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment and occupation based on race, gender, language, or social status. The law does not specifically protect against discrimination based on religion, age, political opinion, national origin, disability, pregnancy, sexual orientation, gender identity, or HIV-positive status. Additionally, no law specifically prohibits discrimination in employment of career

public service members. The government did not effectively enforce relevant employment laws, and penalties were not commensurate with other violations of civil rights.

Gender-based discrimination in employment and occupation occurred (see section 6). Although the labor code stipulates men and women must receive equal pay for equivalent work, the government did not enforce this provision effectively. According to the ILO, women often received less pay in the private sector than did men doing the same job and rarely occupied positions of authority or high responsibility. There were known legal restrictions on women's employment in occupations deemed arduous. Persons with disabilities, including albinism, and certain ethnicities such as Twa faced discrimination in hiring and access to the worksites.

#### **e. Acceptable Conditions of Work**

The government sets regional minimum wages for all workers in private enterprise, with the highest pay scales applied to the cities of Kinshasa and Lubumbashi. In 2018 the Ministry of Labor was implementing a minimum wage increase in a series of increments. The minimum wage was above the poverty line. Most businesses were not in compliance with this minimum wage but faced few penalties.

In the public sector, the government sets wages annually by decree and permits unions to act only in an advisory capacity.

The law defines different standard workweeks, ranging from 45 hours per week to 72 hours every two weeks, for various jobs and prescribes rest periods and premium pay for overtime. The law establishes no monitoring or enforcement mechanism, and employers in both the formal and informal sectors often did not respect these provisions. The law does not prohibit compulsory overtime.

The average monthly wage did not provide a living wage for a worker and family. Salary arrears became more frequent in both the civil service and public enterprises. Many public-sector employees reported they did not receive their annual bonuses. In 2012 the government began paying some civil servant salaries through the banking system in an effort to stop the practice by which supervisors created fake employees and skimmed off some of their subordinates' salaries. The Budget Ministry stated 75 percent of civil servants received their pay through the banking system, but some observers believed that figure was grossly inflated. For

many the government delivered cash in large shipments for local authorities and supervisors to distribute.

The labor code specifies health and safety standards. Penalties were not commensurate with similar legal violations. The Ministry of Labor employed 115 labor inspectors and 71 labor controllers, which was not sufficient to enforce consistent compliance with labor regulations. Labor inspectors have the authority to make unannounced inspections and initiate penalties. The government did not effectively enforce such standards in the informal sector, and enforcement was uneven in the formal sector. Major international mining companies effectively observed health and safety standards, and the Ministry of Mines validation process includes criteria on minimal safety standards. Nonetheless, the law does not allow workers to remove themselves from hazardous situations without putting their employment in jeopardy. Approximately 90 percent of laborers worked in subsistence agriculture, informal commerce or mining, or other informal pursuits, where they often faced hazardous or exploitive working conditions.

In 2015 IPIS estimated there were approximately 300,000 artisanal miners in the 2,000 identified mine sites in the east. It was estimated there were likely an additional 1,000 mine sites that had not been identified.